

CENTER FOR DISABILITY ACCESS  
Amanda Seabock, Esq., SBN 289900  
Prathima Price, Esq., SBN 321378  
Dennis Price, Esq., SBN 279082  
Mail: 8033 Linda Vista Road, Suite 200  
San Diego, CA 92111  
(858) 375-7385; (888) 422-5191 fax  
[amandas@potterhandy.com](mailto:amandas@potterhandy.com)

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Scott Johnson**

Plaintiff,

v.

**CSBC, LLC**, a Delaware Limited  
Liability Company

Defendant.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: Americans With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of CSBC, LLC, a Delaware Limited Liability Company; and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff is a level C-5 quadriplegic. He cannot walk and also has significant manual dexterity impairments. He uses a wheelchair for mobility and has a specially equipped van.

2. Defendant CSBC, LLC owned the real property located at or about 1010 Commercial St, San Jose, California, upon which "Commercial Street Business Center" operates, in between January 2020 and September 2020.

3. Defendant CSBC, LLC owns the real property located at or about 1010 Commercial St, San Jose, California, upon which “Commercial Street Business Center” operates, currently.

4. Plaintiff does not know the true names of Defendants, their business capacities, their ownership connection to the property and business, or their relative responsibilities in causing the access violations herein complained of, and alleges a joint venture and common enterprise by all such Defendants. Plaintiff is informed and believes that each of the Defendants herein is responsible in some capacity for the events herein alleged, or is a necessary party for obtaining appropriate relief. Plaintiff will seek leave to amend when the true names, capacities, connections, and responsibilities of the Defendants are ascertained.

#### **JURISDICTION & VENUE:**

5. The Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

6. Pursuant to supplemental jurisdiction, an attendant and related cause of action, arising from the same nucleus of operative facts and arising out of the same transactions, is also brought under California’s Unruh Civil Rights Act, which act expressly incorporates the Americans with Disabilities Act.

7. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is founded on the fact that the real property which is the subject of this action is located in this district and that Plaintiff's cause of action arose in this district.

#### **FACTUAL ALLEGATIONS:**

8. Plaintiff went to Commercial Street Business Center in January 2020, March 2020, July 2020 and September 2020 with the intention to avail

1 himself of its goods or services motivated in part to determine if the  
2 defendants comply with the disability access laws.

3 9. Commercial Street Business Center is a facility open to the public, a  
4 place of public accommodation, and a business establishment.

5 10. Unfortunately, on the dates of the plaintiff's visits, the defendants failed  
6 to provide wheelchair accessible parking in conformance with the ADA  
7 Standards as it relates to wheelchair users like the plaintiff.

8 11. Commercial Street Business Center provides parking to its customers  
9 but fails to provide wheelchair accessible parking.

10 12. A problem that plaintiff encountered is that many of the parking stalls  
11 and access aisles marked and reserved for person with disabilities had slopes  
12 that exceeded 2.1%.

13 13. Plaintiff believes that there are other features of the parking that likely  
14 fail to comply with the ADA Standards and seeks to have fully compliant  
15 parking available for wheelchair users.

16 14. On information and belief the defendants currently fail to provide  
17 wheelchair accessible parking.

18 15. These barriers relate to and impact the plaintiff's disability. Plaintiff  
19 personally encountered these barriers.

20 16. As a wheelchair user, the plaintiff benefits from and is entitled to use  
21 wheelchair accessible facilities. By failing to provide accessible facilities, the  
22 defendants denied the plaintiff full and equal access.

23 17. The failure to provide accessible facilities created difficulty and  
24 discomfort for the Plaintiff.

25 18. The defendants have failed to maintain in working and useable  
26 conditions those features required to provide ready access to persons with  
27 disabilities.

28 19. The barriers identified above are easily removed without much

1 difficulty or expense. They are the types of barriers identified by the  
2 Department of Justice as presumably readily achievable to remove and, in fact,  
3 these barriers are readily achievable to remove. Moreover, there are numerous  
4 alternative accommodations that could be made to provide a greater level of  
5 access if complete removal were not achievable.

6 20. Plaintiff will return to Commercial Street Business Center to avail  
7 himself of its goods or services and to determine compliance with the disability  
8 access laws once it is represented to him that Commercial Street Business  
9 Center and its facilities are accessible. Plaintiff is currently deterred from  
10 doing so because of his knowledge of the existing barriers and his uncertainty  
11 about the existence of yet other barriers on the site. If the barriers are not  
12 removed, the plaintiff will face unlawful and discriminatory barriers again.

13 21. Given the obvious and blatant nature of the barriers and violations  
14 alleged herein, the plaintiff alleges, on information and belief, that there are  
15 other violations and barriers on the site that relate to his disability. Plaintiff will  
16 amend the complaint, to provide proper notice regarding the scope of this  
17 lawsuit, once he conducts a site inspection. However, please be on notice that  
18 the plaintiff seeks to have all barriers related to his disability remedied. See  
19 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
20 encounters one barrier at a site, he can sue to have all barriers that relate to his  
21 disability removed regardless of whether he personally encountered them).

22  
23 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
24 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
25 Defendants.) (42 U.S.C. section 12101, et seq.)

26 22. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
27 again herein, the allegations contained in all prior paragraphs of this  
28 complaint.

1       23. Under the ADA, it is an act of discrimination to fail to ensure that the  
2 privileges, advantages, accommodations, facilities, goods and services of any  
3 place of public accommodation is offered on a full and equal basis by anyone  
4 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.  
5 § 12182(a). Discrimination is defined, inter alia, as follows:

- 6           a. A failure to make reasonable modifications in policies, practices,  
7 or procedures, when such modifications are necessary to afford  
8 goods, services, facilities, privileges, advantages, or  
9 accommodations to individuals with disabilities, unless the  
10 accommodation would work a fundamental alteration of those  
11 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 12          b. A failure to remove architectural barriers where such removal is  
13 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
14 defined by reference to the ADA Standards.
- 15          c. A failure to make alterations in such a manner that, to the  
16 maximum extent feasible, the altered portions of the facility are  
17 readily accessible to and usable by individuals with disabilities,  
18 including individuals who use wheelchairs or to ensure that, to the  
19 maximum extent feasible, the path of travel to the altered area and  
20 the bathrooms, telephones, and drinking fountains serving the  
21 altered area, are readily accessible to and usable by individuals  
22 with disabilities. 42 U.S.C. § 12183(a)(2).

23       24. When a business provides parking for its customers, it must provide  
24 accessible parking.

25       25. Here, accessible parking has not been provided in conformance with the  
26 ADA Standards.

27       26. The Safe Harbor provisions of the 2010 Standards are not applicable  
28 here because the conditions challenged in this lawsuit do not comply with the

1 1991 Standards.

2 27. A public accommodation must maintain in operable working condition  
3 those features of its facilities and equipment that are required to be readily  
4 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

5 28. Here, the failure to ensure that the accessible facilities were available  
6 and ready to be used by the plaintiff is a violation of the law.

7  
8 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
9 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
10 Code § 51-53.)

11 29. Plaintiff repleads and incorporates by reference, as if fully set forth  
12 again herein, the allegations contained in all prior paragraphs of this  
13 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
14 that persons with disabilities are entitled to full and equal accommodations,  
15 advantages, facilities, privileges, or services in all business establishment of  
16 every kind whatsoever within the jurisdiction of the State of California. Cal.  
17 Civ. Code § 51(b).

18 30. The Unruh Act provides that a violation of the ADA is a violation of the  
19 Unruh Act. Cal. Civ. Code, § 51(f).

20 31. Defendants’ acts and omissions, as herein alleged, have violated the  
21 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s  
22 rights to full and equal use of the accommodations, advantages, facilities,  
23 privileges, or services offered.

24 32. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
25 discomfort or embarrassment for the plaintiff, the defendants are also each  
26 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
27 (c).)

28 33. Although the plaintiff encountered frustration and difficulty by facing

1 discriminatory barriers, even manifesting itself with minor and fleeting  
2 physical symptoms, the plaintiff does not value this very modest physical  
3 personal injury greater than the amount of the statutory damages.

4  
5 **PRAYER:**

6 Wherefore, Plaintiff prays that this Court award damages and provide  
7 relief as follows:

8 1. For injunctive relief, compelling Defendants to comply with the  
9 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
10 plaintiff is not invoking section 55 of the California Civil Code and is not  
11 seeking injunctive relief under the Disabled Persons Act at all.

12 2. Damages under the Unruh Civil Rights Act, which provides for actual  
13 damages and a statutory minimum of \$4,000 for each offense.

14 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
15 to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

16  
17 Dated: January 28, 2021

CENTER FOR DISABILITY ACCESS

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20 By: \_\_\_\_\_



21 Amanda Seabock, Esq.  
22 Attorney for plaintiff  
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